

1 AN ORDINANCE approving CONTRACT FOR
2 RES. #494-1992, LAWRENCE DRAIN
3 IMPROVEMENT - PHASE III between
4 KREAGER BROTHERS EXCAVATING and the
City of Fort Wayne, Indiana, in
connection with the Board of Public
Works.

5 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL
6 OF THE CITY OF FORT WAYNE, INDIANA:

7 SECTION 1. That CONTRACT FOR RES. #494-1992,
8 LAWRENCE DRAIN IMPROVEMENT - PHASE III by and between
9 KREAGER BROTHERS EXCAVATING and the City of Fort Wayne,
10 Indiana, in connection with the Board of Public Works,
11 for:

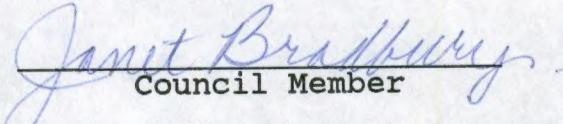
12 is adapted and intended for use by property owner(s)
13 whose property is part of the Lawrence Drain drainage
shed area and the same is hereby ordered on and along the
14 following described area:

15 Beginning at the Southeast corner of U.S. #24
16 and Covington Road; thence Southerly along
the East right-of-way area of U.S. #24, 650±
LF and terminating at the Southeast corner of
U.S. #24 and Getz Road

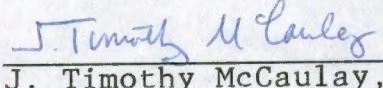
17 Said drainage improvement shall require the
18 installation of 405± LF of 9' x 15' CMP.

19 the contract price is One Hundred Ninety-Eight Thousand
20 Nine Hundred Seventy-Five and no/100 Dollars
(\$198,975.00), all as more particularly set forth in said
21 Contract, which is on file in the Office of the Board of
22 Public Works and, is by reference incorporated herein,
23 made a part hereof, and is hereby in all things ratified,
24 confirmed and approved. Two (2) copies of said
25 Resolution are on file with the Office of the City Clerk
26 and made available for public inspection, according to
27 law.

28 SECTION 2. That this Ordinance shall be in full
29 force and effect from and after its passage and any and
30 all necessary approval by the Mayor.
31

32 
Janet Bradbury
Council Member

APPROVED AS TO FORM
AND LEGALITY


J. Timothy McCaulay, City Attorney

LAURENCE DRAIN IMPROVEMENT - PHASE III

RESOLUTION #4-1992

ENGINEER'S ESTIMATE BREAKER 1000 ALL STAR CONST. LAD INC. FLEMING EXCAVATING DENVER CONST. SE JOHNSON CONST. INC.

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION												
1	9' * 15' CAP (GAGE NO. 8 STEEL ARCH PIPE)	4/5	LF	\$510.00	\$211,650.00	\$345.00	\$13,175.00	\$337.50	\$14,602.50	\$363.00	\$150,445.00	\$361.45	\$150,001.75	\$375.00	\$155,625.00	\$312.00	\$131,970.00
2	REMOVAL OF EXIST. 5' * 8.3' CON- CRETE BOX CULVERT AND HEADWALL	1	LS	\$10,000.00	\$10,000.00	\$13,000.00	\$13,000.00	\$14,400.00	\$14,400.00	\$11,000.00	\$11,000.00	\$15,000.00	\$15,000.00	\$16,000.00	\$16,000.00	\$125,000.00	\$25,000.00
3	REINFORCED CONCRETE JUNCTION BOX STRUCTURE	1	LS	\$10,000.00	\$10,000.00	\$16,500.00	\$16,500.00	\$17,300.00	\$17,300.00	\$17,000.00	\$17,000.00	\$20,000.00	\$20,000.00	\$27,000.00	\$22,000.00	\$32,000.00	
4	REINFORCED CONCRETE HEADWALL STRUCTURE	1	LS	\$7,000.00	\$7,000.00	\$9,000.00	\$9,000.00	\$16,241.00	\$16,241.00	\$15,000.00	\$15,000.00	\$10,000.00	\$10,000.00	\$11,000.00	\$11,000.00	\$25,000.00	\$25,000.00
5	30" INLETS TYPE I-G	5	EA	\$650.00	\$3,250.00	\$950.00	\$4,750.00	\$225.00	\$7,425.00	\$600.00	\$3,000.00	\$550.00	\$2,750.00	\$600.00	\$3,000.00	\$600.00	\$4,000.00
6	18" CAP - GAGE NO. 4	15	LF	\$35.00	\$525.00	\$10.00	\$150.00	\$31.50	\$477.00	\$21.00	\$115.00	\$50.00	\$750.00	\$30.00	\$450.00	\$35.00	\$525.00
7	15" CAP GAGE NO. 3	10	LF	\$30.00	\$300.00	\$10.00	\$100.00	\$27.75	\$277.50	\$18.00	\$100.00	\$50.00	\$500.00	\$30.00	\$300.00	\$34.00	\$340.00
7	12" CAP - GAGE NO. 2	20	LF	\$28.00	\$560.00	\$10.00	\$100.00	\$26.40	\$528.00	\$15.00	\$300.00	\$50.00	\$1,000.00	\$30.00	\$600.00	\$33.00	\$660.00
8	10" PVC SDR-35	40	LF	\$25.00	\$1,000.00	\$10.00	\$400.00	\$24.00	\$960.00	\$13.00	\$520.00	\$20.00	\$800.00	\$30.00	\$1,200.00	\$15.00	\$600.00
9	SPECIAL BACKFILL 653 OR 673 (STON	50	CY	\$15.00	\$750.00	\$16.00	\$600.00	\$11.25	\$462.50	\$10.00	\$400.00	\$15.00	\$750.00	\$20.00	\$1,000.00	\$14.00	\$700.00
10	6" GROUTED RIP-RAP	75	SY	\$20.00	\$1,500.00	\$20.00	\$1,500.00	\$25.00	\$1,875.00	\$12.00	\$900.00	\$19.00	\$1,425.00	\$40.00	\$3,000.00	\$16.00	\$1,200.00
11	12" SHOT ROCKS	30	SY	\$35.00	\$1,050.00	\$15.00	\$450.00	\$40.00	\$1,200.00	\$1.00	\$30.00	\$25.00	\$750.00	\$40.00	\$1,200.00	\$13.00	\$310.00
12	ASPHALT (NO. 9 GUNNER)	150	TH	\$40.00	\$6,000.00	\$30.00	\$4,500.00	\$35.00	\$5,250.00	\$40.00	\$6,000.00	\$25.00	\$3,750.00	\$40.00	\$6,000.00	\$22.00	\$3,300.00
13	ASPHALT (A-2 SURFACE)	50	TH	\$40.00	\$2,000.00	\$40.00	\$2,000.00	\$45.00	\$2,250.00	\$50.00	\$2,500.00	\$40.00	\$2,000.00	\$45.00	\$2,250.00	\$37.25	\$1,862.50
14	DOUBLE CHIP AND SEAL	150	SY	\$20.00	\$3,000.00	\$10.00	\$1,500.00	\$5.00	\$750.00	\$4.00	\$600.00	\$50.00	\$7,500.00	\$10.00	\$1,500.00	\$4.75	\$712.50
15	STREET MEDIAN GRADING	230	LF	\$3.00	\$600.00	\$5.00	\$1,500.00	\$3.00	\$600.00	\$2.00	\$400.00	\$11.00	\$2,530.00	\$6.00	\$1,380.00	\$3.35	\$747.50
17	SEEDING	4000	SY	\$1.00	\$4,000.00	\$0.25	\$1,000.00	\$0.55	\$2,200.00	\$0.50	\$2,000.00	\$5.00	\$20,000.00	\$1.00	\$4,000.00	\$0.30	\$1,200.00
18	RESTORATION	1	LS	\$6,000.00	\$6,000.00	\$4,000.00	\$4,000.00	\$1,000.00	\$1,000.00	\$2,000.00	\$2,000.00	\$15,000.00	\$15,000.00	\$3,500.00	\$3,500.00		
	TOTAL BID				\$269,225.00		\$108,775.00		\$201,833.50		\$201,650.00		\$231,507.25		\$220,505.00		\$233,707.50

	GERGER	DEVELOP	BERCOT	INC.	BUTLER	CONST.
UNIT PRICE EXTENSION						
\$446.46	\$185,200.00	\$450.00	\$186,750.00		\$400.00	\$166,000.00
\$4,645.00	\$4,645.00	\$12,000.00	\$12,000.00	\$40,000.00	\$40,000.00	
\$12,776.40	\$12,776.40	\$20,000.00	\$20,000.00	\$25,000.00	\$25,000.00	
\$15,560.00	\$15,560.00	\$17,500.00	\$17,500.00	\$20,000.00	\$20,000.00	
\$664.50	\$3,322.50	\$550.00	\$2,750.00	\$1,000.00	\$5,000.00	
\$28.25	\$423.75	\$50.00	\$750.00	\$30.00	\$350.00	
\$51.18	\$511.80	\$47.00	\$470.00	\$25.00	\$250.00	
\$46.77	\$975.40	\$45.00	\$900.00	\$20.00	\$400.00	
\$29.23	\$1,169.20	\$40.00	\$1,600.00	\$15.00	\$600.00	
\$14.50	\$725.00	\$15.00	\$750.00	\$15.00	\$750.00	
\$17.63	\$1,322.25	\$15.00	\$1,125.00	\$30.00	\$2,350.00	
\$23.71	\$111.30	\$15.00	\$450.00	\$50.00	\$1,500.00	
\$30.00	\$4,500.00	\$50.00	\$7,500.00	\$30.00	\$4,500.00	
\$40.00	\$2,000.00	\$75.00	\$3,750.00	\$40.00	\$2,000.00	
\$10.00	\$1,500.00	\$4.00	\$600.00	\$10.00	\$1,500.00	
\$6.63	\$1,064.80	\$5.00	\$1,150.00	\$25.00	\$5,750.00	
\$0.35	\$1,400.00	\$1.00	\$4,000.00	\$0.50	\$2,000.00	
\$17,436.66	\$17,436.66	\$8,000.00	\$8,000.00	\$9,000.00	\$9,000.00	
		\$255,325.06		\$260,045.00		\$216,950.00

SEWER CONTRACT 494-92

Lawrence Drain Improvement - Phase III

BOARD ORDER NO. 100-92

WORK ORDER NO. 80012

THIS CONTRACT made and entered into this 13 day of JAN. 1993, by and between KREAGER BROS., EXCAVATING hereinafter called CONTRACTOR and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, acting by and through the Mayor and the Board of Public Works, herein called OWNER;

WITNESSETH, that the CONTRACTOR and the OWNER, for the considerations hereinafter named, agree as follows:

ARTICLE I: SCOPE OF WORK

CONTRACTOR shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the construction of Lawrence Drain Improvement - Phase III as follows:

Beginning at the Southeast corner of U.S. 24 and Covington Road; then, Southerly along the East right-of-way area of U.S. 24, $650 \pm$ LF and terminating at the Southeast corner of U.S. 24 and Getz Road.

Said drainage improvement shall require the installation of $405 \pm$ LF of 9' x 15' CMP.

all according to Lawrence Drain Improvement - Phase III Drawing No. SY-11267 Sheets 1-6, and do and do everything required by this contract and the other documents constituting a part hereof.

ARTICLE 2: THE CONTRACT PRICE

The OWNER shall pay CONTRACTOR for the performance of the contract the unit price sum of ONE HUNDRED NINETY EIGHT THOUSAND NINE HUNDRED SEVENTY-FIVE

AND 00/100 (\$198,975.00) DOLLARS. In the event the amount of work is increased or decreased by **OWNER**, the contract sum shall be increased or decreased according to the unit price schedule set forth in the **CONTRACTOR'S** proposal.

ARTICLE 3: PROGRESS PAYMENTS AND RETAINAGE

The **CONTRACTOR** may submit requests for payments no more often than every thirty (30) days for work performed and accepted under the contract. If the contractor is in compliance with the provisions of the contract, the Board will make payments for such work performed and completed. However, in any such case, the Board will retain ten (10%) percent of the total amount owing to insure satisfactory completion of the contract and to insure contractor's compliance with the E.B.E. Rider attached to this contract. Payments to the contractor are not to exceed 90% of the total contract amount until the **OWNER** has verified that the **CONTRACTOR** has made good faith efforts to attain the E.B.E. goal stipulated in the E.B.E. Rider attached hereto.

If the contract is in excess of \$100,000 the contract will be subject to the standard Board of Public Works escrow agreement. However, payment of the final 10% of the total contract amount will be dependent upon good faith efforts to comply with the E.B.E. Rider, and subject to appropriate reduction in the event of non-compliance, as provided in paragraph 6 of the E.B.E. Rider attached hereto.

ARTICLE 4: ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and accepted and the contract, including the E.B.E. Rider, is fully performed. Payments to the **CONTRACTOR** are not to exceed 90% of the total contract amount until the **OWNER** has verified that the **CONTRACTOR** has made good faith efforts to attain the E.B.E. goal stipulated in the E.B.E. Rider attached hereto.

Upon filing of a Completion Affidavit by the **CONTRACTOR** that the work is ready for final inspection and acceptance, the Board of Public Works will direct the Engineering Department of the **OWNER** to promptly make such inspection, and will direct the Contract Compliance Department of the **OWNER** to make a final recommendation on whether the **CONTRACTOR** made good faith efforts to attain the E.B.E. goal stipulated in the E.B.E. Rider.

When the Engineering Department finds the work acceptable under the contract and the contract is fully performed, it shall so inform the Board of Public Works. Likewise, when the Contract

Compliance Department determines that the **CONTRACTOR'S** efforts constitute good faith efforts to attain the E.B.E. goal as agreed in the E.B.E. Rider, it shall so inform the Board of Public Works through an E.B.E. Compliance Final Report.

Upon receiving both the Engineering Department's and the Contract Compliance Department's recommendations, the Board of Public Works shall issue a final certificate stating that the work provided for in this Contract has been completed and accepted, and further stating that the E.B.E. Rider goal has been met. Thereupon, the entire balance of the contract sum shall be due and payable to the **CONTRACTOR**; provided only that the **CONTRACTOR** shall first furnish **OWNER**, if requested to do so, satisfactory evidence that all persons who have supplied labor, material or equipment for the work have been fully paid, and all required manpower utilization reports for this project have been submitted.

In the event that the Board of Public Works determines that good faith compliance wit the E.B.E. Rider has not occurred, appropriate reduction in the final payment will be made pursuant to paragraph 6 of the E.B.E. Rider attached hereto. Said amount shall be added to the City of Fort Wayne E.B.E. Bond Guarantee Fund and contractor agrees to accept the reduced amount as full payment under the terms of his/her contract.

ARTICLE 5: WORKMEN'S COMPENSATION ACT

The **CONTRACTOR** will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with the Workmen's Compensation Act in accordance with the Statutes of the State of Indiana and Ordinances of the City of Fort Wayne.

Any judgment rendered against the City of Fort Wayne in any suits for damages or injury to real or personal property, or for any injury sustained by any person growing out of any act or doing of **CONTRACTOR**, or its agents, employees or workmen or any judgment of any court or award of any Board of Arbitrators or of the Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation for accidental injuries or death suffered by his employees or the employees of any subcontractor or subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said **CONTRACTOR**, shall be conclusive against **CONTRACTOR** as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that **CONTRACTOR** indemnify and hold harmless **OWNER** in the premises.

ARTICLE 6: NON-DISCRIMINATION OF LABOR

The **CONTRACTOR** further agrees to be bound by Section 15-13 (as amended), of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-34-78 (as amended) on December 12, 1978. The successful bidder shall file a Manpower Utilization Report for this project with the Compliance Office within ten (10) days after completion of construction or upon request of the Office of Compliance.

ARTICLE 7: PREVAILING WAGE SCALE

The **CONTRACTOR** agrees to pay, and also require of his subcontractors that they pay wage rates on the work covered by this contract which shall not be less than the prescribed scale of wages as determined pursuant to the Statutes of the State of Indiana, and the Ordinances of the City of Fort Wayne, according to the applicable wage scale as included in the bid documents.

ARTICLE 8: COMPONENT PARTS OF THIS CONTRACT

The following documents are as fully a part of the contract as if hereto attached or herein repeated:

- a. Advertisement for Bids, for Contract No. 494-92.
- b. Instructions to Bidders for Contract No. 494-92.
- c. Contractor's Proposal dated September 9, 1992.
- d. Fort Wayne Engineering Department Drawing No. SY-11267.
- e. Supplemental Specifications for Contract No. 494-92
- f. Workmen's Compensation Act, Statutes of the State of Indiana and Ordinances of the City of Fort Wayne
- g. Non-Discrimination of Labor, General Ordinance No. G-34-78 (as amended)
- h. Prevailing Wage Scale
- i. Performance and Guaranty Bond
- j. Labor and Material Payment Bond
- k. Minority/Female Employment Hourly Utilization
- l. Right-of-Way Cut Permit
- m. Comprehensive Liability Insurance Coverage
- n. EBE Rider

ARTICLE 9: GUARANTEE OF WORKMANSHIP

At the time of execution of this Contract, the **CONTRACTOR** shall furnish a Performance and Guaranty bond in favor of the City of Fort Wayne in the amount of the total value of the materials supplied and/or work performed under the terms of this contract. The said bond shall ensure the completion of the work covered hereunder and shall guarantee the materials and workmanship for a period of one (1) year following written acceptance of the work by the **OWNER**.

ARTICLE 10: INDEMNITY

CONTRACTOR shall furnish to **OWNER** within ten (10) days of the date hereof, a certificate from an insurer acceptable to **OWNER** showing personal property damage insurance, in force and issued in connection with the work to be performed under this Contract, in amounts satisfactory to **OWNER** and in accordance with the Statutes of the State of Indiana.

ARTICLE 11: ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the **CONTRACTOR** and the **OWNER** under the provisions of this Contract shall be subject to the decision of the Director of Board of Public Works of the **OWNER**, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications or other phases of the work covered by this contract will be permitted except on prior written authorization by the Board of Public Works.

ARTICLE 12: COMPLETION DATE

The **CONTRACTOR** agrees to complete the work specified in the contract within 120 consecutive calendar days after having been ordered by the **OWNER** to commence work under this contract.

ARTICLE 13: COUNCILMANIC APPROVAL

This agreement, although executed on behalf of the **OWNER** by the Mayor and Board of Public Works & Safety of the City of Fort Wayne, Indiana, shall not be binding upon the **OWNER**

unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the same within ninety (90) days after the date hereof, then this Contract shall be and become wholly void.

ARTICLE IV:

This contract is governed by the Laws of the State of Indiana.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF FORT WAYNE:

Paul Helmke

BY:

Paul Helmke, Mayor

CONTRACTOR:

KREAGER BROS., EXCAVATING

BY: *Tony E Kreager*

BOARD OF PUBLIC WORKS &
SAFETY

Charles Layton, Director Public Works

Katherine Carrier
Katherine A. Carrier, Member

C. James Owen
C. James Owen, Member

ATTEST:

Patricia J. Creek

Admn. Appr.

TITLE OF ORDINANCE: Contract for Res. #494-1992, Lawrence Drain Improvement - Phase III.

DEPARTMENT REQUESTING ORDINANCE: Board of Public Works

SYNOPSIS OF ORDINANCE: The contract for Res. #494-1992, Lawrence Drain Phase III is adapted and intended for use by property owner(s) whose property is part of the Lawrence Drain drainage shed area and the same is hereby ordered on and along the following described area:

Beginning at the Southeast corner of U. S. #24 and Covington Road; thence Southerly along the East right-of-way area of U. S. #24, 650± LF and terminating at the Southeast corner of U. S. #24 and Getz Road.

Said drainage improvement shall require the installation of 405± LF of 9' X 15' CMP.

Kreager Brothers Excavating is the contractor.

EFFECT OF PASSAGE: Will benefit the commercial and residential areas east of Getz Road between Illinois Road and Covington Road.

EFFECT OF NON PASSAGE:

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$198,975.00 (1992 allocation of the Allen County Tax Incremental Financing)

ASSIGNED TO COMMITTEE:

ACKNOWLEDGEMENT

STATE OF INDIANA)
)SS
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared Paul Helmke, Mayor; Charles Layton, Katherine A. Carrier and C. James Owen, all as Members of the Board of Public Works of the City of Fort Wayne, Indiana, and acknowledged the execution of the foregoing Contract as and for their voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 13 day of Jan, 1993.

Carolyn S. Newport Notary Public

Printed Name of Notary

Resident of _____

County _____

My Commission Expires:

CAROLYN S. NEWPORT
NOTARY PUBLIC STATE OF INDIANA
ALLEN COUNTY
MY COMMISSION EXP. JUNE 21, 1995

ACKNOWLEDGEMENT

**STATE OF INDIANA)
COUNTY OF ALLEN)**

Before me, the undersigned, a Notary Public, in and for said County and State personally appeared _____ who acknowledged the execution of the foregoing Contract as and for their voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and seal this 6 day of January , 1993.

<u>Vickie L. Wall</u>	Notary Public
<u>Vickie L. Wall</u>	Printed Name of Notary
Resident of Allen	County

My Commission Expires:

March 14, 1996

This instrument prepared by:
Michael L. Thorntson, P.E.
Assistant Chief Engineer/Storm

APPROVED BY THE Common Council of the City of Fort Wayne, Indiana, on the ___ day
of ___ 1993.

SPECIAL ORDINANCE:

E.B.E. RIDER

THIS AGREEMENT made and entered into by and between the CITY OF FORT WAYNE, hereinafter referred to as "Owner" and Kreager Bros., Excavating.

_____hereinafter referred to as "Contractor",

WITNESSETH:

WHEREAS, Contractor is the apparent low bidder on construction project commonly referred to as the Lawrence Drain Improvement - Phase III.

_____which project was bid under Resolution Number 494-92
_____; and,

WHEREAS, Contractor agrees that the goal for qualified Emerging Business Enterprises, hereinafter sometimes referred to as "E.B.E.'s" as subcontractors on this project is 10% of the contract amount; and,

WHEREAS, Owner has, pursuant to Executive Order 90-01, adopted a goal of at least 10% of the contract amount to Emerging Business Enterprises as defined under said Executive Order; and,

WHEREAS, said Executive Order states:

"Section 2, Paragraph C. Each contractor shall be required to make a good faith effort to subcontract 10% of the contract amount to Emerging Business Enterprises on each construction contract he/she is awarded. In the event a contractor is unable to subcontract 10% of the contract amount or secure the services of an Emerging Business Enterprise, he/she will

be required to submit a completed Request for Waiver form on which he/she will provide a written description of the efforts taken to comply with the participation goals."

NOW, THEREFORE, in consideration of the foregoing and of the mutual agreements hereinafter contained, the sufficiency of which consideration is hereby acknowledged, the parties hereto agree as follows:

1. Conditional Award. Subject to approval by the Common Council of the City of Fort Wayne as stipulated in the construction contract to which this Rider is attached, Owner awards the construction contract to the Contractor.
2. E.B.E. Retainage Requirements. If the contractor is in compliance with the provisions of the construction contract to which this Rider is attached, the Owner will make payments for such work performed and completed. However, in any such case, the Owner will retain ten (10%) percent of the total amount owing to insure satisfactory completion of the contract and to insure contractor's compliance with this E.B.E Rider. Upon final inspection and acceptance of the work, and determination by the Fort Wayne Board of Public Works that the contractor has made a good faith effort to subcontract 10 % of the contract amount to emerging business enterprises, the contractor will be paid in full

In the event there is a determination that good faith compliance with this E.B.E. Rider has not occurred, appropriate reduction in the final payment pursuant to paragraph of this E.B.E. Rider will be made.

3. Request for Waiver. If at the time final payment application is made, contractor has not attained the 10% E.B.E. goal, contractor shall file with the final payment application a "Request for Waiver." Said Request for Waiver shall contain a written description of the efforts taken by Contractor to attain the 10% E.B.E. goal.
4. Determination of Wavier Requests. The Contract Compliance Department of the City of Fort Wayne shall examine all Requests for Waiver to determine if Contractor's efforts constitute good faith efforts to attain such goal and shall submit recommendations concerning said Requests for Waver for the final determination of the Board of Public Works of the City of Fort Wayne.
5. Good Faith Per Se. In any case, a contractor shall be deemed to have made good faith efforts at compliance where E.B.E.'s have been subcontracted for every sub-contract for which there are qualified E.B.E.'s available.
6. Consequence of Non-Compliance. In the event the Board of Public Works approves a recommendation that contractor failed to make good faith efforts at compliance, the contract shall be reduced by the amount calculated as the difference between 10% and the percentage level met. Said amount shall be added to the City of Fort Wayne E.B.E. Bond Guarantee Fund and contractor agrees to accept the reduced amount as full payment under the terms of his/her contract.
7. Waiver Approved. In the event the Board of Public Works determines that a good faith effort to comply with this E.B.E. Rider has been made, the contract shall not be reduced, and the balance owing to the contractor shall be paid in full.

IN WITNESS WHEREOF, the parties have executed this E.B.E. Rider this 13 day of

JANUARY 1993.

By: Tony E. Kreager
Contractor

By: **BOARD OF PUBLIC WORKS**

Charles E. Layton, Director of Public Works

Katherine Carrier
Katherine A. Carrier, Member

C. James Owen
C. James Owen, Member

ATTEST: Patricia J. Crick
Patricia J. Crick, Clerk

MEMORANDUM

TO: Common Council Members

DATE: January 20, 1993

RE: Introduction of Contract on January 26, 1993 for Resolution #494-1992, Lawrence Drain Improvement - Phase III

FROM: Charles E. Layton, Board of Works

J-93-0r-21

This project was initiated because of the Meijers Development Project (Illinois/Getz Rd.) The improvement of Lawrence Drain Road will benefit the commercial and residential areas east of Getz Road between Illinois and Covington Road and will prevent potential flooding of the Time Corners Shopping Center area due to new developments upstream (north) of said shopping center.

The drainage improvement of Lawrence Drain is intended and adapted for use by property owner(s) whose property is part of the Lawrence Drain drainage shed area and the same is hereby ordered on and along the following described area:

Beginning at the Southeast corner of U. S. #24 and Covington Road; thence Southerly along the East right-of-way area of U.S. #24, 650± and terminated at the Southeast corner of U. S. #24 and Getz Road.

Said drainage improvement shall require the installation of 405± LF of 9' X 15' CMP.

We advertised Notice to Contractors on August 21 and 28, 1992 and received bids on September 9, 1992.

The contract for Resolution #494-92, Lawrence Drain Improvement - Phase III, was awarded to Kreager Brothers Excavating in the amount of \$198,975.00. This was 26% below the engineers estimate (269,275.00). They were the lowest of nine bidders.

The cost of said drain improvements shall be paid by the City of Fort Wayne through proceeds from the 1992 allocation of the Allen County Tax Incremental Financing.

Read the first time in full and on motion by Bradbury,
seconded by _____, and duly adopted, read the second time by
title and referred to the Committee on City Plan (and the
City Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Common Council Conference Room 128, City-County
Building, Fort Wayne, Indiana, on _____, the _____, day
of _____, 19_____, at _____ o'clock M., E.S.T.

DATED: 1-26-93

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Talarico,
seconded by _____, and duly adopted, placed on its passage.
PASSED LOST by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>6</u>			<u>3</u>
<u>BRADBURY</u>				<u>✓</u>
<u>EDMONDS</u>	<u>✓</u>			
<u>GIAQUINTA</u>				<u>✓</u>
<u>HENRY</u>	<u>✓</u>			
<u>LONG</u>				<u>✓</u>
<u>LUNSEY</u>	<u>✓</u>			
<u>RAVINE</u>	<u>✓</u>			
<u>SCHMIDT</u>	<u>✓</u>			
<u>TALARICO</u>	<u>✓</u>			

DATED: 2-9-93

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK
Wanda Estelle Kennedy Clerk

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. A-15-93
on the 9th day of February, 1993

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK
Wanda Estelle Kennedy Clerk

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 10th day of February, 1993,
at the hour of 11:00 o'clock P.M., E.S.T.

Approved and signed by me this 1st day of February,
1993, at the hour of 4:15 o'clock P.M., E.S.T.

PAUL HELMKE
PAUL HELMKE, MAYOR

